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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 BILLY CEPERO,

10 Petitioner,

Case No. 2:14-cv-01396-MMD-GWF

11 v.
12 BRIAN WILLIAM, et al.,
13 Respondents.

ORDER

14 On March 11, 2015, this Court granted petitioner Billy Cepero's motion to stay
15 and abey his *pro se* habeas corpus petition under 28 U.S.C. § 2254 until his state
16 habeas petition was resolved (dkt. no. 8). The stay was conditioned upon Cepero
17 returning to federal court with a motion to reopen the case within forty-five (45) days of
18 the conclusion of his state-court proceedings.

19 On December 16, 2015, retained counsel for Cepero entered a notice of
20 appearance in this matter and filed a motion to reopen the case (dkt. nos. 9, 10).
21 However, counsel failed to attach a proposed amended petition or indicate that Cepero
22 wished to proceed with the petition already on file in this case. Respondents opposed
23 the motion to reopen the case on several bases, including that petitioner had not
24 submitted a proposed amended petition (dkt. no. 11). Cepero's counsel filed a reply in
25 which he acknowledged that he had not filed a proposed amended petition and attached
26 what he styled a proposed amended petition as well as exhibits (dkt. no. 12).

27 The purported amended petition sets forth no grounds for habeas relief. It instead
28 appears to be more of an anticipatory opposition to a motion to dismiss the petition as

1 time-barred. However, no first-amended petition has been proffered to which
2 respondents can file a responsive pleading, including a motion to dismiss. Accordingly,
3 Cepero's motion to reopen the case (dkt. no. 10) is denied without prejudice. Within
4 thirty (30) days of the date of this order, counsel for petitioner must file a new motion to
5 reopen the case and attach a proposed first-amended petition. The petition must set
6 forth all grounds for federal habeas relief.

7 Finally, counsel for petitioner is expressly advised that any state court record
8 exhibits must be filed with a separate index of exhibits identifying the exhibits by
9 number. The CM/ECF attachments that are filed further msut be identified by the
10 number or numbers of the exhibits in the attachment.

11 It is therefore ordered that petitioner's motion to reopen the case (dkt. no. 10) is
12 denied without prejudice as set forth in this order.

13 DATED THIS 13th day of April 2016.
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16 MIRANDA M. DU
17 UNITED STATES DISTRICT JUDGE
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